

BILL ANALYSIS

Senate Research Center

S.B. 1175
By: Lucio
Health and Human Services
6-6-95
Enrolled

BACKGROUND

In recent years, a greater awareness of sexual assault has produced more advocates who wish to provide services to survivors of sexual assault. Currently, training programs for these advocates are conducted independently at each center that provides such services, and are not regulated by law.

PURPOSE

As enrolled, S.B. 1175 establishes provisions for the certification of advocates for victims of sexual assault and for confidential communications between a certified advocate and a victim.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is granted to the Texas Board of Health under SECTION 2 (Section 44.053(a), Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 44.003, Health and Safety Code, to define "advocate."

SECTION 2. Amends Chapter 44, Health and Safety Code, by adding Subchapters C and D, as follows:

SUBCHAPTER C. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT

Sec. 44.051. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT. Provides that an individual qualifies as an advocate for victims of sexual assault if the individual is certified by the Texas Department of Health (department) as minimally competent to be an advocate for victims of sexual assault and is employed by a sexual assault program or provides services through a sexual assault program as a volunteer under the supervision of an advocate.

Sec. 44.052. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION. Entitles a certified sexual assault program to obtain from the Texas Department of Public Safety criminal history record information that relates to a person who is an employee, an employee applicant, an advocate, or an advocate applicant of the program in the same manner as a volunteer center may obtain that information under Section 411.126, Government Code.

Sec. 44.053. CERTIFICATION OF TRAINING PROGRAMS. (a) Authorizes the Texas Board of Health (board), by rule, to adopt minimum standards for certifying training programs for advocates and for the revocation, suspension, or probation of a certification.

(b) Declares that Subchapters C-G, Chapter 2001, Government Code, do not apply to the denial of approval, approval, revocation, suspension, or placement on probation of a training program. Requires the department to conduct a hearing in accordance with rules adopted by the board. Requires the rules to provide for notice to an affected party.

SUBCHAPTER D. CONFIDENTIAL COMMUNICATIONS

Sec. 44.071. CONFIDENTIAL COMMUNICATIONS. (a) Makes confidential and not to be disclosed except as provided by this subchapter a communication between an advocate and a survivor, or a person claiming to be a survivor, that is made in the course of providing advocacy services to the survivor.

(b) Makes confidential a record of the identity, personal history, background information of a survivor, or information concerning the victimization of a survivor that is created or provided to an advocate, or maintained by a sexual assault program.

(c) Prohibits a person who receives information from a confidential communication or record from disclosing the information, except as consistent with the authorized purposes for which the information was obtained.

(d) Provides that this subchapter governs a confidential communication or record concerning a survivor, regardless of when the survivor received the services of an advocate or sexual assault program.

(e) Authorizes the privilege of confidentiality to be claimed in a criminal, civil, or administrative proceeding, and to be claimed by a survivor or advocate acting on behalf of a survivor.

(f) Declares that, if an advocate claims the privilege of confidentiality on behalf of a survivor, the authority to do so is presumed to exist in the absence of evidence to the contrary.

Sec. 44.072. EXCEPTIONS. (a) Authorizes a communication or record that is privileged under this subchapter to be disclosed in court or in an administrative proceeding if certain conditions are met.

(b) Authorizes the disclosure of a confidential communication or record under this subchapter only to certain persons.

(c) Prohibits a communication or record that is confidential under this subchapter from being disclosed to a parent or legal guardian of a survivor who is a minor, if an advocate or a sexual assault program knows or has reason to believe that the parent or legal guardian of the survivor is a suspect in the sexual assault of the survivor.

Sec. 44.073. CONSENT. (a) Requires consent for the release of confidential information to be in writing and signed by the survivor, an attorney ad litem appointed for the survivor, or certain other persons if the survivor is a minor, adjudicated incompetent, or deceased. Requires the consent to contain certain information.

(b) Authorizes a survivor, or other person authorized to consent, to withdraw consent to the release of information by submitting a written notice of withdrawal to the person or program to which consent was provided. Provides that withdrawal does not affect information disclosed before the date on which notice of withdrawal was received.

(c) Prohibits a person who receives information made confidential by this chapter from disclosing the information, except as consistent with the authorized purposes for which the person obtained the information.

Sec. 44.074. OFFENSE. Provides that a person commits an offense, classified as a Class C misdemeanor, who intentionally or knowingly discloses a communication or record that is confidential under this chapter, except as provided by this chapter.

SECTION 3. Effective date: September 1, 1995.

SECTION 4. Emergency clause.